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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,453	10/15/2003	Richard D. Hibbs	HREL121731	8781
26389	7590	05/20/2005	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,453

Applicant(s)

HIBBS ET AL.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 14-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

This is the third office action for application number 10/687,453, Apparatus for Securing a Cap of a Container to an External Structure, filed on October 15, 2003.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 5, 7, and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,706,154 to Luebbbers et al, hereinafter, Luebbbers.

Luebbbers discloses a remover (5) capable of functioning as a hanger, comprising: a coil (8) sized to fit within a handle grip (10) and thus is capable of fitting within a cap; a body (6) connected to the coil, in which the body is configured to extend away from the coil; a hook (7) connected to the body, in which the hook is configured to engage an external structure for hanging; wherein the coil, the body, and the hook are constructed of wire; wherein the wire is used to construct the coil, body, and the hook is a single integral length of wire; wherein the coil is comprised of one or more loops; and wherein the coil is configured to be retained within the cap by spring tension against the cap.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Luebbbers. Luebbbers discloses the claimed invention except for the limitation of the wire being

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made of stainless steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the wire in Goldstein to have been constructed of stainless steel for the purpose of providing an alternative, mechanically equivalent material for the wire based on the materials suitability for the intended use.

Claims 6, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luebbbers in view of U.S. Patent 5,060,995 to Goldstein et al, hereinafter, Goldstein. Luebbbers discloses the claimed invention except for the limitations of the coil having a partial loop and an intermediate bend in the body. Goldstein teaches an adapter (10) capable of functioning as a hanger, comprising: a coil (16) sized to fit within a cap; a body (11) connected to the coil, in which the body is configured to extend away from the coil; a hook (12) connected to the body, in which the hook is configured to engage an external structure for hanging; wherein the coil, the body, and the hook are constructed of wire; wherein the wire is used to construct the coil, body, and the hook is a single integral length of wire; wherein the coil is comprised of one or more loops; wherein the coil is comprised of a partial loop (near 17); and wherein the body is further configured with an intermediate bend (14). It would have been obvious to one having ordinary skill in the art at to have modified the body in Luebbbers to have included a partial loop and a bend as taught by Goldstein for the purpose of providing an alternative, aesthetically different appearance to the body.

Allowable Subject Matter

Claims 14-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 21 is allowed.

Response to Arguments

Applicant's arguments filed February 25, 2005 have been fully considered but they are not persuasive. The rejection in regards to the Luebbbers reference stands.

In response to applicant's argument that claim 10 is further limiting, the limitations of claim 10 are functional and the applied reference only need to be capable of this limitation.

In response to applicant's argument that Luebbbers does not teach the limitation of the coil being compressed, the handle 8 in Luebbbers will inherently be compressed in order to achieve the tight press-fit engagement desired between the handle and the grip 10.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within


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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

May 16, 2005